

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

MARVIN JOE,)	
)	
Plaintiff,)	
)	Cause No.: _____
vs.)	
)	Federal Employers' Liability Act
)	(FELA)
UNION PACIFIC RAILROAD COMPANY,)	
)	
Serve: C T Corporation System)	
1999 Bryan Street, Suite 900)	
Dallas, Texas 75201)	
)	
Defendant.)	

COMPLAINT

Plaintiff Marvin Joe, by and through counsel, Schlichter, Bogard & Denton LLP, states as follows for his Complaint against Defendant Union Pacific Railroad Company:

Parties, Jurisdiction & Venue

1. This action arises under the Federal Employers' Liability Act ("FELA"), 45 U.S.C. §51 et seq. and asserts a claim from on duty injuries sustained by Plaintiff on or about June 30, 2019, while in the course of employment with Defendant in Texarkana, Texas. Accordingly, this court has subject matter jurisdiction of this federal cause of action pursuant to 28 U.S.C. §1331.

2. At all times relevant, Plaintiff has been a resident of the Conway, Arkansas and was employed by Defendant as a locomotive engineer, working in furtherance of Defendant's interstate transportation and commerce, regularly transporting freight trains between Arkansas and Texas.

3. At all times relevant, Defendant has been a corporation duly organized and the laws of Delaware and is engaged in interstate commerce in the business of hauling freight by rail in various states, including in Texas, in which it owns, controls and operates a railroad running into

and through the geographic region of the Eastern District of Texas and maintains a registered agent in Dallas, Texas.

4. This Court has specific personal jurisdiction over Defendant because a substantial part of the events or omissions giving rise to the claim occurred within this district.

5. Venue is proper in this district pursuant to 28 U.S.C. §1391(b)(2) because the incident occurred in this judicial district.

6. On or about June 30, 2019, Plaintiff sustained injuries in the course and scope of his employment when Defendant's agent was transporting Plaintiff by crew van from Defendant's train yard to its designated lodging facility, as part of Defendant's operational activities, and drove on the wrong side of the roadway which caused a head-on collision with another vehicle. Plaintiff's injuries were caused, in whole or in part, by one or more of the following acts of negligence by Defendant and/or its agents and employees:

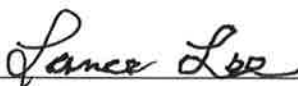
- (a) it failed to provide Plaintiff with a reasonably safe place to work;
- (b) it failed to provide Plaintiff with reasonably safe conditions to work;
- (c) it failed to provide Plaintiff with reasonably safe equipment and vehicles;
- (d) it failed to operate its transport vehicle in a reasonably safe manner;
- (e) it failed to keep a careful and proper lookout for other vehicles;
- (f) it failed to keep its vehicle under control;
- (g) it failed to operate its vehicle while exercising the appropriate degree of care;
- (h) it failed to operate its vehicle on the correct side of the roadway;
- (i) it failed to avoid collision with another vehicle by swerving or pulling to the side of the roadway;
- (j) it failed to yield to oncoming traffic;

- (k) it failed to properly coordinate and communicate a safe pick up and drop off of railroad employees so as to avoid unnecessary alterations in route; and
- (k) it improperly retained an unqualified driver, failed to ensure the driver received adequate training, and improperly assigned that driver to transport its employees to and/or from the State of Arkansas.

7. As a result, in whole or in part, of one or more of the foregoing violations and acts or omissions of negligence on the part of Defendant, Plaintiff sustained traumatic injuries to and/or aggravation of preexisting conditions to his brain (mild traumatic brain injury or concussion), left shoulder, both knees, abdomen, back, ribs, chest, neck, and hips; he has required healthcare treatment, including surgeries, for these injuries, and is reasonably certain to require additional treatment in the future; he has incurred and will continue incurring medical expenses; he has experienced and will continue to experience physical pain and emotional distress; he has lost and will continue to lose wages, benefits and earning capacity; he has sustained scarring and disfigurement; he has experienced a diminished ability to engage in physical, social, and recreational activities and to perform household services all of which are reasonably certain to continue in the future; all to his damage.

WHEREFORE, Plaintiff prays for judgment against Defendant Union Pacific Railroad Company, in an amount which is fair and reasonable in excess of \$75,000, plus costs of suit.

Respectfully submitted,



Lance Lee,
Texas Bar No. 24004762
5511 Plaza Drive
Texarkana, Texas 75503

Tel: (903) 223-0276
Fax: (903) 233-0210
wlancelee@gmail.com

and

SCHLICHTER BOGARD & DENTON LLP
Nelson G. Wolff, *pro hac vice to be filed*
Scott M. Gershenson, *pro hac vice to be filed*
100 South Fourth Street, Suite 1200
St. Louis, Missouri 63102
Tel: (314) 621-6115
Fax: (314) 621-7151
nwolff@uselaws.com
sgershenson@uselaws.com

COUNSEL FOR PLAINTIFF